

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015070811

ORDER GRANTING MOTION FOR
STAY PUT

On June 29, 2015, Student filed a motion for stay put. Student is requesting that the Office of Administrative Hearings issue an order that District be required to provide Student door-to-door to transportation to his non-public school placement. Student's motion is supported by (1) a declaration from Student, (2) a declaration from his parent, and (3) two pages from his last consented to and implemented Individualized Education Program.

District has not filed a response to the motion.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006)¹; Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the placement called for in the student's IEP, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.)

The IDEA regulations define transportation as: (i) travel to and from school and between schools; (ii) transportation in and around school buildings; and (iii) specialized equipment (such as adapted buses, lifts, and ramps), if required to provide transportation for

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

a child with a disability. (34 C.F.R. § 300.34(c)(16)(2006).) Decisions regarding such services are left to the discretion of the IEP team. (Analysis of Comments and Changes to 2006 IDEA Part B Regulations, 71 Fed. Reg. 46576 (August 14, 2006).) However, the IDEA requires transportation of a disabled child only to address his educational needs, not to accommodate a parent's convenience or preference. (*Fick v. Sioux Falls School Dist.* 49-5 (8th Cir. 2003) 337 F.3d 968, 970; *Student v. Los Angeles Unified School Dist.* (2010) Cal.Offc.Admin.Hrngs. Case No. 2009080646.)

DISCUSSION

Student has been eligible for special education and related services since 2007. Since 2007 and up to May 21, 2015, Student has been placed by his IPE's, and attended, five non-public schools. In these IEP's, Student has always been provided door-to-door transportation.

Student's March 24, 2015 IEP states that he is "transportation eligible" without describing how that service will be delivered. District provided door-to-door transportation to his placements under this IEP as it had done since he became eligible in 2007.

On May 21, 2015, Arch Academy, Student's then placement, issued a 20 day notice and dismissed him as a student. Student was placed at the San Diego Center for Children, a non-public school, on May 28, 2015. Kamal Boulazreg, a District program manager, informed Student's parent that transportation could not be provided until June 22, 2015. On June 22, 2015, no school bus arrived at Student's home to transport him to his new school. Parent was informed that District would provide transportation from and to his placement at a designated bus stop located "many blocks away from his home."

In *Parents v. Escondido Union High School District* (October 15, 2012) OAH Case Number 2012100368), student filed a motion for stay put so as to include transportation as student's IEP was silent as to transportation. There, OAH determined that transportation stay put can be determined by the manner that Escondido implemented the transportation in the last consented to and implemented IEP.

Here, the same situation applies. Student's past IEP's included transportation, which had always been door-to-door. District had implemented the currently implemented IEP by providing door-to-door transportation. Thus, Student's stay put would include door-to-door transportation to his new placement at the San Diego Center for Children.

ORDER

Student's motion for stay put is GRANTED. District shall provide door-to-door transportation to the site of his placement.

DATE: July 24, 2015

/s/

ROBERT HELFAND

Administrative Law Judge

Office of Administrative Hearings